

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

KEVIN JAMES KOHUTE,

Plaintiff,

V.

MCDONALD'S,

Defendant.

Case No. 6:24-cv-467-JDK-KNM

**ORDER ADOPTING THE REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

Plaintiff Kevin James Kohute filed this civil rights lawsuit pursuant to 42 U.S.C. § 1983. The case was referred to United States Magistrate Judge K. Nicole Mitchell for findings of fact, conclusions of law, and recommendations for disposition.

On December 13, 2024, Judge Mitchell ordered Plaintiff to pay the filing fee or submit an application to proceed in forma pauperis, and to amend his claims. Docket Nos. 3; 4. On January 14, 2025, after Plaintiff failed to comply, Judge Mitchell issued a Report recommending that the case be dismissed without prejudice for failure to prosecute. Docket No. 6. No written objections have been filed, and the time to do so has passed.


This Court reviews the findings and conclusions of the Magistrate Judge de novo only if a party objects within fourteen days of service of the Report and Recommendation. 28 U.S.C. § 636(b)(1). In conducting a de novo review, the Court examines the entire record and makes an independent assessment under the law.

Douglass v. United Servs. Auto. Ass'n, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc), *superseded on other grounds by statute*, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days).

Here, Plaintiff did not object in the prescribed period. The Court therefore reviews the Magistrate Judge's findings for clear error or abuse of discretion and reviews the legal conclusions to determine whether they are contrary to law. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989) (holding that, if no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law").

Having reviewed the Magistrate Judge's Report and the record in this case, the Court finds no clear error or abuse of discretion and no conclusions contrary to law. Accordingly, the Court hereby **ADOPTS** the Report and Recommendation of the United States Magistrate Judge (Docket No. 6) as the findings of this Court. It is therefore **ORDERED** that this case is **DISMISSED** without prejudice for failure to prosecute. FED. R. CIV. P. 41(b).

So **ORDERED** and **SIGNED** this **7th** day of **February, 2025**.


JEREMY D. KERNODLE
UNITED STATES DISTRICT JUDGE